

Senate Commerce Committee Amendment No. 1

AMENDMENT NO. _____

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AMEND Senate Bill No. 3216*

House Bill No. 3227

is amended by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-35-120, is amended by designating the existing language as subsection (a) and by adding a new subsection thereto, as follows:

(b) A security officer/guard shall provide written notice to the commissioner or his designee and to the licensee or the proprietary security organization which employs the security officer/guard of any arrest and resulting conviction, except for minor traffic violations, within thirty (30) days of such arrest or conviction.

SECTION 2. Tennessee Code Annotated, Section 62-35-124, is amended by designating the existing language as subsection (a) and by adding a new subsection thereto, as follows:

(b) A licensee or proprietary security organization shall provide written notice to the commissioner or his designee of any arrest and/or conviction, except for minor traffic violations, within thirty (30) days of being notified or learning of such arrest and/or conviction of:

(1) The licensee or its qualifying agent; or

(2) Any person employed as a security officer/guard by the licensee or the proprietary security organization.

SECTION 3. Tennessee Code Annotated, Section 62-35-130, is amended by deleting such section in its entirety and by substituting instead the following new section:

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Section 62-35-130. (a) The commissioner may take disciplinary action against a licensee, registrant or applicant, deny an application for a license or registration, or may suspend, revoke, or refuse to issue or renew any certificate, certified trainer license, license or registration card hereunder upon finding that the holder or applicant has:

(1) Violated any provision of this chapter, or any rule promulgated hereunder;

(2) Practiced fraud, deceit or misrepresentation;

(3) Knowingly and willfully made a material misstatement in connection with an application for a license or registration card;

(4) Been convicted by a court of competent jurisdiction of any felony or of a misdemeanor, if the commissioner finds that such conviction reflects unfavorably on the fitness for such license or registration card; or

(5) Committed any act which would have been cause for refusal to issue such license or registration card had it existed and been known to the commissioner at the time of issuance.

(6) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(7) Willfully deceived or defrauded a member of the public being protected;

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(8) Acted as a contract security company or proprietary security company without a currently valid license;

(8) Acted as an armed or unarmed security officer/guard on a registration card that has expired or without a valid registration card as this chapter requires;

(10) Violated any disciplinary order of the commissioner; or

(11) Has failed or refused to cooperate with any inspection or investigation to determine compliance with this chapter or rules and regulations promulgated pursuant thereto.

(b) In addition to or in lieu of any other lawful disciplinary action under this section, the commissioner may assess a civil penalty of up to five thousand dollars (\$5,000) for each statute or rule violation.

(c) The commissioner may assess a civil penalty of up to five thousand dollars (\$5,000) per occurrence upon any person who operates without the proper license or other authorization required.

(d) A license or registration card shall be subject to expiration and renewal during any period in which such license or registration card is suspended.

SECTION 4. Tennessee Code Annotated, Section 62-35-118(a), is amended by adding a new subdivision thereto, as follows:

(5) For applicants for private security officer/guard registration who will carry a club, stun gun, chemical spray, night stick, or other nonlethal device, the

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commissioner shall require appropriate training specific to such device by a certified trainer who is certified to instruct for such specific device. It shall be the employers' responsibility to keep training records of their employees for each specific device. The security officer/guard shall also have in his/her possession a certification card issued by an instructor/trainer who is certified to train/instruct in the legal use of such specific device and shall exhibit such card upon demand by the commissioner or his duly authorized agent or any full-time law enforcement officer.

SECTION 5. Tennessee Code Annotated, Section 62-35-102(16), is amended by adding the following as new subdivision (C) and by relettering the existing subdivision (C) and subsequent subdivision accordingly:

(C) Enforce rules, regulations or local or state laws on private property;

SECTION 6. Tennessee Code Annotated, Section 62-35-102, is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) "Armed security officer/guard" means a security officer/guard who at any time wears, carries, possesses, or has access to a firearm, or any facsimile of any firearm which may leave the impression that such person is armed, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia or device which identifies or tends to identify the wearer as a security officer/guard;

SECTION 7. Tennessee Code Annotated, Section 62-35-102, is further amended by deleting subdivision (19) in its entirety and by substituting instead the following:

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(19) "Unarmed security officer/guard" means a security officer/guard who never wears, carries, or has access to a firearm, or any facsimile of a firearm, which may leave the impression that such person is armed with a firearm, but who may carry other non-lethal devices as prescribed herein with the proper certification, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia, or device which identifies or tends to identify the wearer as a security officer/guard;

SECTION 8. Tennessee Code Annotated, Section 62-35-103(a), is further amended by deleting subdivision (8) in its entirety and by substituting instead the following:

(8) A full-time sworn peace officer receiving compensation for services as a guard, patrolman or watchman under a contract with a private business which is properly licensed by the state of Tennessee;

SECTION 9. Tennessee Code Annotated, Section 62-35-103(a), is further amended by deleting subdivisions (7), (9), (10) and (11) in their entirety.

SECTION 10. Tennessee Code Annotated, Section 62-35-120, is amended by deleting such section in its entirety and by substituting instead the following:

The receipt, application or registration card shall be exhibited upon request of the commissioner or his designee, full-time law enforcement officer, or an employer to verify that the security officer/guard is working pursuant to the requirements of this chapter.

SECTION 11. Tennessee Code Annotated, Section 62-35-122, is amended by deleting subsections (a), (b) and (c) in their entirety and by substituting instead the following:

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(a) All registration cards, or renewals thereof, shall expire two (2) years from date of issuance.

(b) The commissioner shall establish the fees in reasonable amounts for the timely renewal of armed or unarmed registration cards.

(c) Registrations may be renewed up to three (3) months after their expiration by payment of the renewal fee plus a penalty established by the commissioner for each month or portion thereof which elapses before payment is tendered.

SECTION 12. Tennessee Code Annotated, Section 62-35-123, is amended by deleting subsection (b) in its entirety.

SECTION 13. Tennessee Code Annotated, Section 62-35-125, is amended by deleting such section in its entirety and by substituting instead the following:

An armed security officer/guard may carry only such types of firearms as the commissioner shall, by rules and regulations, prescribe in the performance of his/her duties. A security officer/guard may carry a firearm only if he/she is certified to carry such firearm. With proper certification an unarmed or armed security officer/guard may carry any other type weapon to include but not be limited to clubs/batons, stun guns, chemical sprays, or any other tool or weapon that the commissioner may prescribe.

SECTION 14. Tennessee Code Annotated, Section 62-35-128, is amended by adding the following language to the end of subdivisions (1) and (2):

, unless the licensed security officer is in plain clothes;

SECTION 15. Tennessee Code Annotated, Section 62-35-131, is amended by deleting such section in its entirety and by substituting instead the following:

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(a)

(1) No licensee or registrant shall be required to obtain any authorization, permit, or license from or to pay any other fee or post a bond in any municipality, county or other political subdivision of this state to engage in any business or activity regulated under this chapter.

(2) Notwithstanding the provisions of subdivision (a)(1), a municipality, county or other political subdivision of this state may impose:

(A) A bona fide business tax; and

(B) Regulations upon any person who furnishes street patrol services, including a requirement that such person register with a designated agency.

(b) Any person not bonded and sworn as a law enforcement officer, but who is properly registered as an armed security officer/guard as defined herein, shall not carry a firearm unless such person first applies for and receives a written directive as provided by this chapter from the chief law enforcement officer of the county of such person's company's permanent business address. In any county having a metropolitan form of government the chief of police shall be the chief law enforcement officer (CLEO.). In counties not having a metropolitan form of government the sheriff shall be the chief law enforcement officer (CLEO.). When a security officer/guard is working in another jurisdiction other than the primary county of issuance, the chief law enforcement officer of the county in which such security officer/guard is working shall be notified where the security guard(s)/officer(s) will be assigned and the length of the assignment. This shall

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be done in writing by the employer of the security officer/guard, unless other arrangements are made with the chief law enforcement officer of the county, within five (5) days of the date of first service. The chief law enforcement officer and his officer/deputies shall recognize the state-issued security armed card and the primary directive as valid in their jurisdiction while any security officer/guard is traveling to or from a job site and while performing his/her duties while at the job site, or while any representative of a security company, supervisor or officers are traveling to or from job sites, or operating as a street patrol service.

(c) The chief law enforcement officer shall require an individual to present proof of compliance with this chapter, and shall notify the commissioner, or his designee, of any objection to the issuance of any written directive within ten (10) days of the date of receiving such request from an applicant for a written directive.

(d) The chief law enforcement officer shall waive the provisions relative to training for those individuals properly and duly registered and in possession of a valid armed registration card. If a valid objection exists, however, proof or information indicating training should not be waived shall be sent to the commissioner or his designee within ten (10) days of such objection, along with a written explanation of the chief law enforcement officer's objection.

(e) Upon compliance with the provisions of this section, the chief law enforcement officer shall issue a written directive authorizing such individual to carry a firearm for the purpose of employment only. Such directive shall be valid in all

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jurisdictions of the state while the security officer/guard is performing his official duties for a specific employer.

(f) On the front of such directive shall be displayed the name, photograph, thumbprint, physical characteristics and signature of the person to whom the directive is issued, as well as the chief law enforcement officer's identification number, date of issue and signature of the chief law enforcement officer.

(g) On the back of such directive shall be displayed the conditions for carrying of a firearm, a statement that the bearer of this written directive must have in his possession a valid armed security officer/guard registration card, also the make, model and caliber of any firearms to be carried, and an expiration date which shall coincide with the expiration date of the individual's armed security officer/guard registration card.

(h) The written directive shall be issued in a wallet-sized card and shall be permanently laminated.

(i) The chief law enforcement officer may charge a reasonable fee of not more than twenty-five dollars (\$25.00) for the issuance and administration of the written directive. Upon expiration or change of employment/employer, or revocation or suspension of an individual's armed security officer/guard registration card, the directive shall be immediately returned to the possession of the chief law enforcement officer issuing such directive. The chief law enforcement officer shall at all times reserve the right to refuse to issue, revoke or suspend the authorization to carry a firearm at such time as he finds just cause which indicates the person's disqualification to carry a firearm and shall notify the commissioner within ten (10) days of his decision.

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(j) If the chief law enforcement officer (CLEO) denies a written directive, the chief law enforcement officer (CLEO) shall notify the applicant in writing within ten (10) days of such determination. The written notice shall be marked confidential and personal and shall state the specific factual basis for the chief law enforcement officer's (CLEO's) determination. It shall include a copy of any reports, record and/or inquiries reviewed or relied upon by the CLEO and shall notify the applicant that the applicant has a right to bring an action to challenge the denial of an application.

(k) Anyone intentionally failing to return a written directive within three (3) business days to the issuing chief law enforcement officer commits a Class A misdemeanor.

SECTION 16. Tennessee Code Annotated, Section 62-35-134(c)(3), is amended by deleting the word "firearm" and by substituting instead the language "firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type".

SECTION 17. Tennessee Code Annotated, Section 62-35-134(c)(4), is amended by deleting the word "firearm" and by substituting instead the language "firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type".

SECTION 18. Tennessee Code Annotated, Section 62-35-136, is amended by deleting such section in its entirety and by substituting instead the following:

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Except as otherwise provided in this chapter, or in any rule or regulation promulgated pursuant thereto, a violation of this chapter, or any rule promulgated hereunder, is a Class A misdemeanor.

SECTION 19. Tennessee Code Annotated, Title 62, Chapter 35, is amended by adding a new section thereto, as follows:

No city, county, or urban county government shall occupy any part of the field of regulation of private protective services unless expressly provided for herein.

SECTION 20. Tennessee Code Annotated, Section 39-13-102(d), is amended by inserting the language “, or a state registered security officer/guard performing an official duty” after the words “parole officer” and before the words “or an employee”.

SECTION 21. Tennessee Code Annotated, Section 39-17-1308 is amended by deleting subdivision (8) in its entirety and by substituting instead the following:

(8) By a person possessing a club/baton who holds a valid state security officer/guard registration card as a private security officer/guard, issued by the commissioner , and who also has certification that he has had training in the use of club/baton which is valid and issued by a person certified to give training in the use of clubs/batons.

SECTION 22. Tennessee Code Annotated, Section 39-17-1308 is amended by adding a new subdivision thereto, as follows:

(9) By any person possessing a club/baton who holds a certificate that he has had training in the use of a club/baton for self-defense which is valid and issued by a

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certified person authorized to give training in the use of clubs/batons, and is not prohibited from purchasing a firearm under any local, state or federal laws;

SECTION 23. Tennessee Code Annotated, Section 39-11-106 is amended by adding the following as new item (33) and by renumbering the existing item (33) and subsequent items accordingly:

(33) Security officer/guard means an individual employed to perform any function of a security officer/guard and security officer/guard patrol service as set forth in title 62, chapter 35;

SECTION 24. Tennessee Code Annotated, Section 39-17-1311(b), is further amended by adding a new item thereto as follows:

() A registered security officer/guard, who meets the requirements of title 62, chapter 35, while in the performance of his duties;

SECTION 25. Tennessee Code Annotated, Section 39-17-1309(e), is amended by adding a new subdivision thereto, as follows:

() Any registered security officer/guard who meets the requirements of title 62, chapter 35, and who is discharging his official duties;

SECTION 26. Tennessee Code Annotated, Section 62-35-129, is further amended by adding a new subsection thereto, as follows:

(e) The commissioner or his designee may at all reasonable hours conduct inspections/investigations of contract security companies, proprietary security organizations, and security officer/guards to ensure compliance with this chapter.

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SECTION 27. Tennessee Code Annotated, Section 62-35-110, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) Licenses may be renewed up to three (3) months after their expiration by the payment of the renewal fee plus a penalty established by the commissioner for each month or portion thereof which elapses before payment is tendered.

SECTION 28. Tennessee Code Annotated, Section 62-35-126, is amended by adding a new subsection thereto, as follows:

() Certifications may be renewed up to three (3) months after their expiration by payment of the renewal fee plus a penalty established by the commissioner for each month or portion thereof which elapses before payment is tendered.

SECTION 29. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect November 1, 1996, the public welfare requiring it.